

Chapter 5

DEVELOPMENT OF THE RAILROAD UNEMPLOYMENT INSURANCE SYSTEM

The railroad unemployment insurance system, like the railroad retirement system, was established in the 1930's. The great depression demonstrated the need for unemployment compensation programs, and State unemployment programs had been established under the Social Security Act in 1935. While the State unemployment programs generally covered railroad workers, railroad operations which crossed State lines caused special problems. Unemployed railroad workers were denied compensation by one State because they became unemployed while working in another State or because their employers had paid unemployment taxes in another State. Although there were cases where employees appeared to be covered in more than one State, they often did not qualify in any.

RAILROAD UNEMPLOYMENT INSURANCE ACT OF 1938

A Federal study commission, which reported on the nationwide State plans for unemployment insurance, recommended that railroad workers be covered by a separate plan because of the complications their coverage had caused the State plans. Congress subsequently enacted the Railroad Unemployment Insurance Act in June 1938. The Act established a system of benefits for unemployed railroaders, financed entirely by railroad employers and administered by the Board. Sickness benefits were added in 1946.

The Act of 1938 established a system of benefits for unemployed railroad workers, plus a free placement service, to be financed by a payroll tax of three percent, payable entirely by employers. After some minor changes in the following year, the law went into operation on July 1, 1939.

Benefits were payable to qualified railroad employees according to a scale of daily rates geared to base-year earnings. Initially, the daily rates ranged from \$1.75 to \$3 and were payable for a maximum of 80 days in each benefit year, after an initial waiting period. In 1940, the maximum daily rate was raised to \$4 and the maximum duration to 100 days in 20 weeks; the waiting period was reduced from 15 days to 7 days and a uniform benefit year was established.

MAJOR AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

The first set of major amendments was enacted in 1946. The maximum duration was increased to 26 weeks and the maximum daily benefit rate to \$5. The most important feature of these amendments was the program of cash sickness benefits (including maternity benefits) for railroad workers, paralleling unemployment benefits and financed from the same taxes. At that time, only two States, Rhode Island and California, had sickness plans. Three additional States (New Jersey, New York and Hawaii) and Puerto Rico later adopted similar plans.

As a result of the very low rate of unemployment and relatively high payrolls during the war years, the balance in the Railroad Unemployment Insurance Account mounted rapidly. Consequently, in 1948 the principle of a fixed contribution rate was abandoned and a sliding scale of contribution rates substituted. The rates were to range from 0.5 percent to 3 percent of taxable payroll, depending on the current balance in the Railroad Unemployment Insurance Account.

1950's.—Amendments enacted in 1952 and 1954 raised the maximum daily benefit rate to \$7.50 and then to \$8.50, the base year earnings needed by an employee to qualify for benefits to \$300 and then to \$400, and the taxable limit on monthly earnings from \$300 to \$350. The amendments also provided that the benefit rate, subject to the

maximum amount, should not be less than half the claimant's daily wage rate. In addition, normal benefits for unemployment or sickness in a benefit year were each limited in total to the employee's creditable base year earnings.

Legislation in 1959 increased the maximum daily benefit rate to \$10.20, raised the benefit rate guaranty to 60 percent of the daily wage rate, and provided extended unemployment benefits for 13 weeks to employees with at least 10 years of service and 26 weeks of extended benefits to 15-year employees. These amendments also raised the base year qualifying amounts from \$400 to \$500, and the limit on creditable and taxable earnings from \$350 to \$400 a month. They removed the waiting period for unemployment benefits and the Sunday and holiday disqualification provision, and increased the maximum contribution rate to 3.75 percent. In addition, the Board received authority to borrow money from the Railroad Retirement Account when necessary in order to pay benefits when due. Such loans were to bear the same interest rate as was being earned by other investments of the Railroad Retirement Account. After the borrowing authority was first used in July 1959, additional sums were subsequently borrowed in succeeding years as required. Payments on the debts to the Railroad Retirement Account were made whenever excess unemployment funds were available.

1960's.—Amendments enacted in 1963 were designed to improve the financing of the system. The maximum contribution rate was increased to four percent, and the amount of base-year earnings needed by an employee to qualify for benefits was raised from \$500 to \$750. Also, a minimum base-year service requirement of seven months was added for employees having no previous railroad service, and the disqualification for quitting work voluntarily without good cause was made more stringent. Following these amendments, indebtedness to the Railroad Retirement Account gradually declined from a then peak level of nearly \$330 million and was liquidated in September 1973.

In 1968, legislation increased the maximum daily benefit rate to \$12.70 and provided extended benefits for sickness on essentially the same basis as for unemployment, except that these extended sickness benefits could not be paid to employees age 65 or older. These

amendments also raised the base-year qualifying amount to \$1,000, eliminated the special maternity benefit provisions (benefits were still payable for pregnancy and childbirth under the sickness benefit provisions), and added a disqualification for employees who receive separation allowances.

1970's.—Amendments in 1975 increased the maximum daily benefit rate to \$24 beginning on July 1, 1975, and to \$25 starting on July 1, 1976. The 60 percent daily benefit rate guaranty was retained in the amended law up to the amount of the new daily maximum, and a new daily minimum rate of \$12.70 was established. The amendments liberalized the basic eligibility requirements for new employees by lowering the seven-month base-year service requirement to five months. In addition, the 1975 amendments mandated a seven-day waiting period for benefit payments resulting from strikes. The tax rate schedule was increased, starting in 1976, from a maximum of four percent to a maximum of eight percent, depending on the balance in the account, in order to finance the increased benefits. This legislation also lowered the waiting period for sickness benefits.

The 1975 legislation also provided extended unemployment benefit periods of up to 13 weeks for employees with less than 10 years of service during “periods of high unemployment.” Under the pre-existing law, extended benefits were payable only to employees with 10 or more years of service. However, subsequent 1981 legislation repealing the “high unemployment” extended benefit provisions in the State unemployment programs nullified the related railroad unemployment insurance provisions, and the Board was required to cease awarding extended benefits to employees with less than 10 years of service.

The Revenue Act of 1978 made unemployment benefits and sickness benefits paid in lieu of unemployment benefits subject to Federal income tax.

1980's.—Amendments enacted in 1981 subjected the first six months of sickness benefits to tier I railroad retirement taxes, provided the benefits did not result from on-the-job injury. Legislation enacted in March 1983 provided unemployed railroad workers with less than 10 years of service, who exhausted normal railroad unemployment benefits, up to 10 weeks of temporary supplemental

extended unemployment benefits, but these temporary benefits were financed from Federal general revenue funds.

Subsequent to 1973, the Railroad Unemployment Insurance Account balance fluctuated into and out of the red until the early 1980's when the continuing recession in the national economy depressed rail traffic levels to the extent that large-scale layoffs were underway by early 1982. The layoffs increased unemployment benefit payments to record levels which far exceeded unemployment tax income and necessitated high levels of loans from the Railroad Retirement Account. The Railroad Unemployment Insurance Account owed the Railroad Retirement Account a peak amount of over \$850 million at the end of fiscal year 1986. Financial measures to assist the Railroad Unemployment Insurance Account were included in the Railroad Retirement Solvency Act enacted August 12, 1983.

The Solvency Act raised the taxable limit on monthly earnings from \$400 to \$600 and the base-year qualifying amount from \$1,000 to \$1,500. The waiting period for benefits during strikes was increased from 7 to 14 days. A temporary repayment tax on railroad employers was scheduled to begin July 1, 1986, to initiate repayment of the loans made by the Railroad Retirement Account. Sickness benefits, other than those resulting from on-the-job injuries, were made subject to Federal income tax.

The 1983 legislation also mandated the establishment of a Railroad Unemployment Compensation Committee to review the unemployment and sickness benefit programs and submit a report to Congress. The Committee reviewed all aspects of the railroad unemployment insurance system, in particular, repayment of the system's debt to the Railroad Retirement Account, and the viability of transferring railroad unemployment benefit payments to State programs.

The Consolidated Omnibus Budget Reconciliation Act of April 1986 revised the 1983 law which had set a temporary unemployment insurance loan repayment tax beginning July 1, 1986, at a 2 percent rate with increases of 0.3 percent a year until 1990. The amended schedule required rates of 4.3 percent on wages up to \$3,500 beginning July 1986, 4.7 percent in calendar year 1987 on wages up to \$7,000, and 6 percent in 1988. This budget legislation also continued authority for borrowing by the Railroad Unemployment Insurance

Account from the Railroad Retirement Account, but provided for an automatic unemployment insurance surtax on rail employers of 3.5 percent on annual wages up to \$7,000 if further borrowing took place.

As a result of the Gramm/Rudman Act, unemployment and sickness benefits were reduced in fiscal year 1986 and have been reduced periodically in subsequent years.

The 1986 Tax Reform Act made all unemployment benefits subject to Federal income tax, beginning with taxable year 1987.

1988 LEGISLATION AND LATER AMENDMENTS

The Railroad Unemployment Insurance and Retirement Improvement Act, based on the recommendations of the Railroad Unemployment Compensation Committee, was included in the Technical and Miscellaneous Revenue Act of 1988, enacted November 10, 1988. The legislation raised the unemployment and sickness daily benefit rate from \$25 to \$30 retroactively to July 1988 and indexed benefit rates and earnings requirements to national wage levels. The daily benefit rate subsequently rose to \$31 in July 1989, \$33 in July 1992, and \$36 in July 1994. (Legislation enacted in 1996 raised the rate to \$42 effective October 9, 1996, and to \$43 in July 1997.) A two-week waiting period was established and employers were provided the right to appeal claims of their employees after 1989. Also, the amount of subsidiary remuneration from part-time work which unemployment benefit claimants can earn without affecting their benefits was increased from \$10 to \$15 a day.

Under the indexing provisions of the 1988 amendments, the taxable earnings base in calendar year 1989 increased from \$600 to the first \$710 of each employee's monthly earnings, and by 1997 to \$890. For 1989 and 1990, the contribution rate for most employers was set at 8 percent. Experience-based tax rates were phased in during 1991, with rates ranging from 5.55 percent to 12 percent. In 1997, they ranged from 0.65 percent to 12 percent.

The 1988 amendments assured repayment of the unemployment system's debt to the retirement system by fixing the loan repayment tax at 4 percent in January 1989, with that rate remaining in force until

the debt was fully repaid with interest. And the previous \$7,000 annual base for this tax was changed to conform to the indexed monthly taxable compensation base. In June 1993 the \$180 million loan balance was repaid in its entirety from cash reserves in the Railroad Unemployment Insurance Account and the loan repayment tax was terminated.

A contingency surtax of 3.5 percent, effective in the event of further borrowing by the Railroad Unemployment Insurance Account, was eliminated in 1991. Instead, a surcharge can be added to employers' unemployment insurance taxes for a calendar year if the balance in the unemployment insurance account on the previous June 30 goes below \$100 million. The 1988 amendments also require the Board to make annual financial reports to Congress on the status of the unemployment insurance system.

The Omnibus Budget Reconciliation Act of 1989 revised Federal indexing procedures, which raised the maximum on monthly compensation subject to railroad unemployment insurance taxes and the qualifying earnings requirement. They were \$890 and \$2,225, respectively, by January 1997. This legislation also revised fiscal year 1990 unemployment and sickness benefit sequestrations under the Gramm/Rudman Act.

1990's.--Under 1991, 1992 and 1993 emergency unemployment compensation legislation providing temporary extended State unemployment benefits, unemployed railroad workers were made eligible for extended benefits, on a temporary basis, regardless of years of service. These temporary extended benefits were made available for specified periods in 1991, 1992, 1993 and 1994 if previous benefit rights were exhausted by certain dates.

RAILROAD UNEMPLOYMENT INSURANCE AMENDMENTS ACT OF 1996

The Railroad Unemployment Insurance Amendments Act of 1996, signed into law on October 9, 1996, increased the railroad unemployment and sickness insurance daily benefit rate and revised the formu-

la for indexing future benefit rates. It also reduced the waiting period for initial benefit payments and eliminated duplicate waiting periods in continuing periods of unemployment and sickness. In addition, the Act applied an earnings test to claims for unemployment and reduced the duration of extended benefit periods for long-service employees. The Act's provisions were based on joint recommendations to Congress negotiated by rail labor and management in order to update the railroad unemployment insurance system along the lines of State unemployment insurance systems. The following provisions were effective upon the October 9, 1996, enactment date.

The maximum railroad unemployment and sickness insurance daily benefit rate increased to \$42 from \$36. The formula for indexing future benefit rates was modified so that rates will increase more frequently, generally with the start of each new benefit year in July. The daily benefit rate increases to \$43 in July 1997 and \$44 in July 1998.

The Act eliminated the full two-week waiting period and made benefits payable for each day of unemployment or sickness in excess of seven during an employee's first 14-day registration period in a benefit year. It also eliminated a second waiting period previously required when a new benefit year began during a continuing period of unemployment or sickness.

An "earnings test" was made applicable to claims for intermittent unemployment if an employee's earnings for days worked in a 14-day registration period are more than a certain indexed amount, in which case no benefits are payable for any days of unemployment in that period.

Claimants with 15 years of service, who exhaust normal benefits, were made eligible for 13-week periods of extended benefits rather than the 26-week periods provided under prior law.